

Statutory Licensing Sub-Committee

21st April 2022



Application for the Review of a Premises Licence

Ordinary Decision

Report of Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change

Councillor John Shuttleworth, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships

Electoral division(s) affected:

Consett North

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of Finnians, 7 Trafalgar Street, Consett DH8 5AP.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 28th March 2022, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.
- 4 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises where there is the sale of alcohol and where it is considered the premises are associated with serious crime and / or serious disorder.
- 5 On 30th March 2022, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. Members decided to suspend the premises licence with immediate effect and remove the designated premises supervisor, Mr Anthony Nicholson pending the full review hearing. A copy of the notice of determination is attached as Appendix 3.

- 6 At the time of writing the report, the representation period had not ended, however, one representation had been received from Sarah Smith, Sinton's Solicitors on behalf of Mr Choudhury, the landlord of Finnian's. Members will be updated prior to and at the hearing whether any further representations have been received.
- 7 The Home Office and the Planning Authority responded to the consultation with no comments.

Recommendation(s)

- 8 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 9 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council's Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8.

Background

- 10 Background information

Applicant	Durham Constabulary	
Type of Application: Review of a Premises Licence	Date received: 28th March 2022	Consultation ended: 11th April 2022
Premises Licence Holder	Mr Anthony Nicholson	
Designated Premises Supervisor (DPS)	Not named Mr Anthony Nicholson (removed under interim steps hearing)	

- 11 The premises licence in respect of Finnians currently permits the sale of alcohol for consumption on the premises, regulated entertainment and late-night refreshment as detailed in the table below:

Licensable Activity	Days & Hours
Sale of Alcohol (for consumption on the premises)	Monday to Sunday: 11:00 – 00:00 hrs
Plays, films, indoor sporting events, boxing or wrestling entertainment, live music, recorded music, performances of dance and any other similar entertainment (indoors)	Monday to Sunday: 11:00 – 00:30 hrs
Late night refreshment (indoors)	Monday to Sunday: 23:00 – 00:00 hrs
Opening hours	Monday to Sunday: 11:00 – 00:30 hrs

- 12 A copy of the current premises licence is attached at Appendix 4.

Details of the application

- 13 The review application was received by the Licensing Authority on 28th March 2022.
- 14 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.
- 15 The application for review relates to the following licensing objectives:
- The Prevention of Crime and Disorder and;
 - Public safety
- 16 A copy of the application and supporting certificate is attached at Appendix 5.

The Representations

- 17 At the time of writing the report, the consultation period had not ended however, one representation had been received from Sarah Smith,

Sinton's Solicitors on behalf of Mr Choudhury, the landlord of Finnian's. This is attached as Appendix 6.

Members will be updated prior to and at the hearing if any further relevant representations are received.

18 Responses were received from the following Responsible Authorities, confirming that they had no comments to make in relation to the review application:

- The Home Office
- The Planning Authority

The Parties

19 The Parties to the hearing will be:

- Sgt Caroline Dickenson, Durham Constabulary (Applicant)
- Mr Anthony Nicholson (premises licence holder)

Options

20 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;
- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

21 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

22 The review application was subject to a 10-working day consultation.

See Appendix 1

Conclusion

- 23 The Sub-Committee is asked to determine the application for the review of the premises licence for Finnians, 7 Trafalgar Street, Consett.

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

Other useful documents

- None
-

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore, the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence review application was subject to a 10-day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

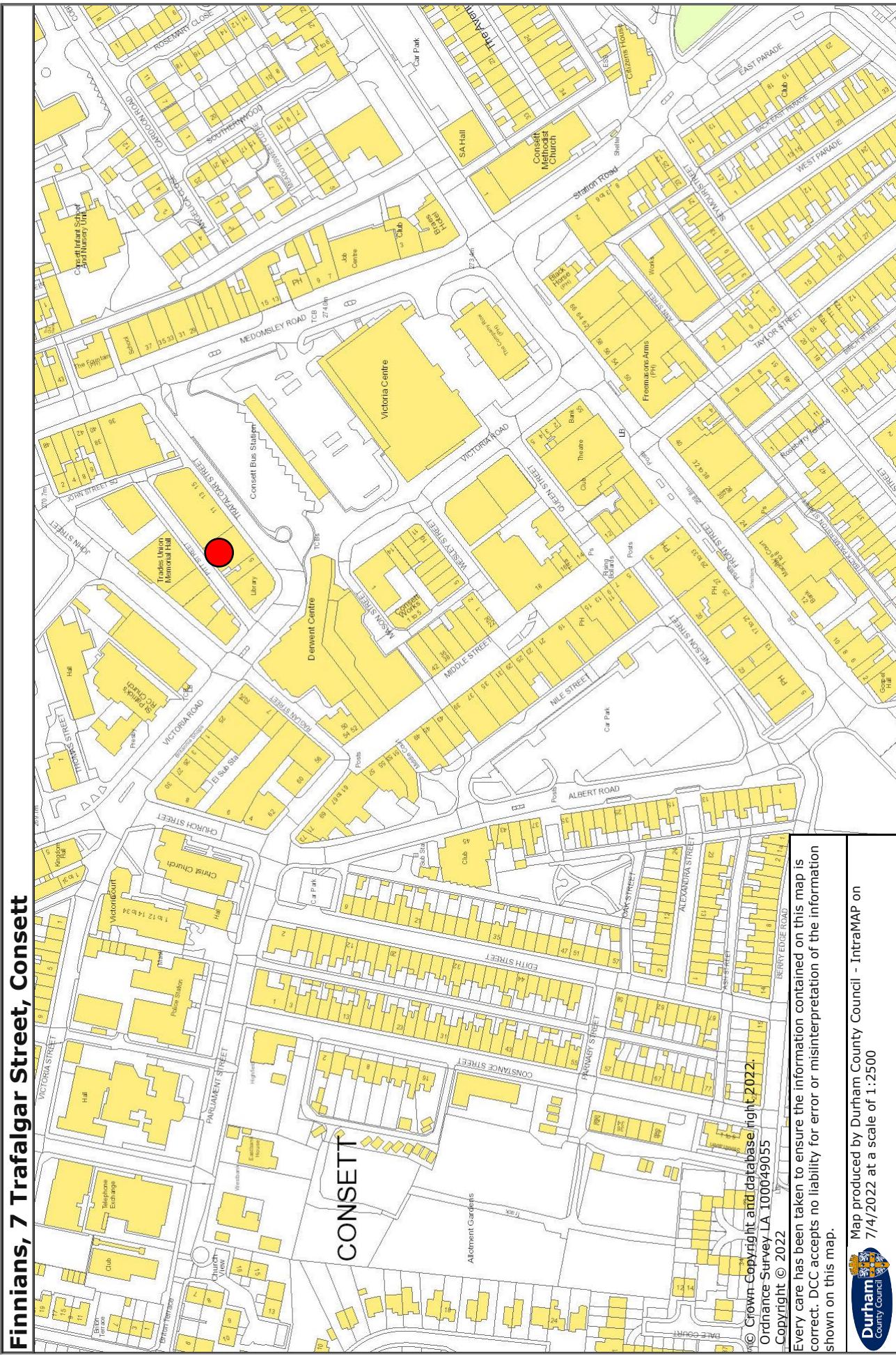
The notice of application was displayed on the premises for a period of 10 working days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 10-working day consultation period.

Appendix 2: Location Plan

Finnians, 7 Trafalgar Street, Consett



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Ordnance Survey LA 100049055
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on
7/4/2022 at a scale of 1:2500



Appendix 3: Notice of determination – Interim Steps Hearing

THE COUNTY COUNCIL OF DURHAM

Licensing Act 2003 (the Act) Committee

NOTICE OF DETERMINATION

Date of Hearing : 30th March 2022

Date of Determination : 30th March 2022

Committee Members :
1. Councillor J Blakey (Chair)
2. Councillor I McClean
3. Councillor D Brown

1. Type of application or hearing

Summary Licence Review

2. Applicant

Durham Constabulary

3. Premises

Finnians, 7, Trafalgar Street, Consett, DH8 5AP

4 The Application

4.1 For the summary review of a Premises Licence under section 53A of the Licensing Act 2003

5. Witnesses

5.1 The Sub-Committee heard from the following:

- Helen Johnson – Licensing Team Leader
- Sgt Caroline Dickinson, Durham Constabulary

6. Licensing Act 2003

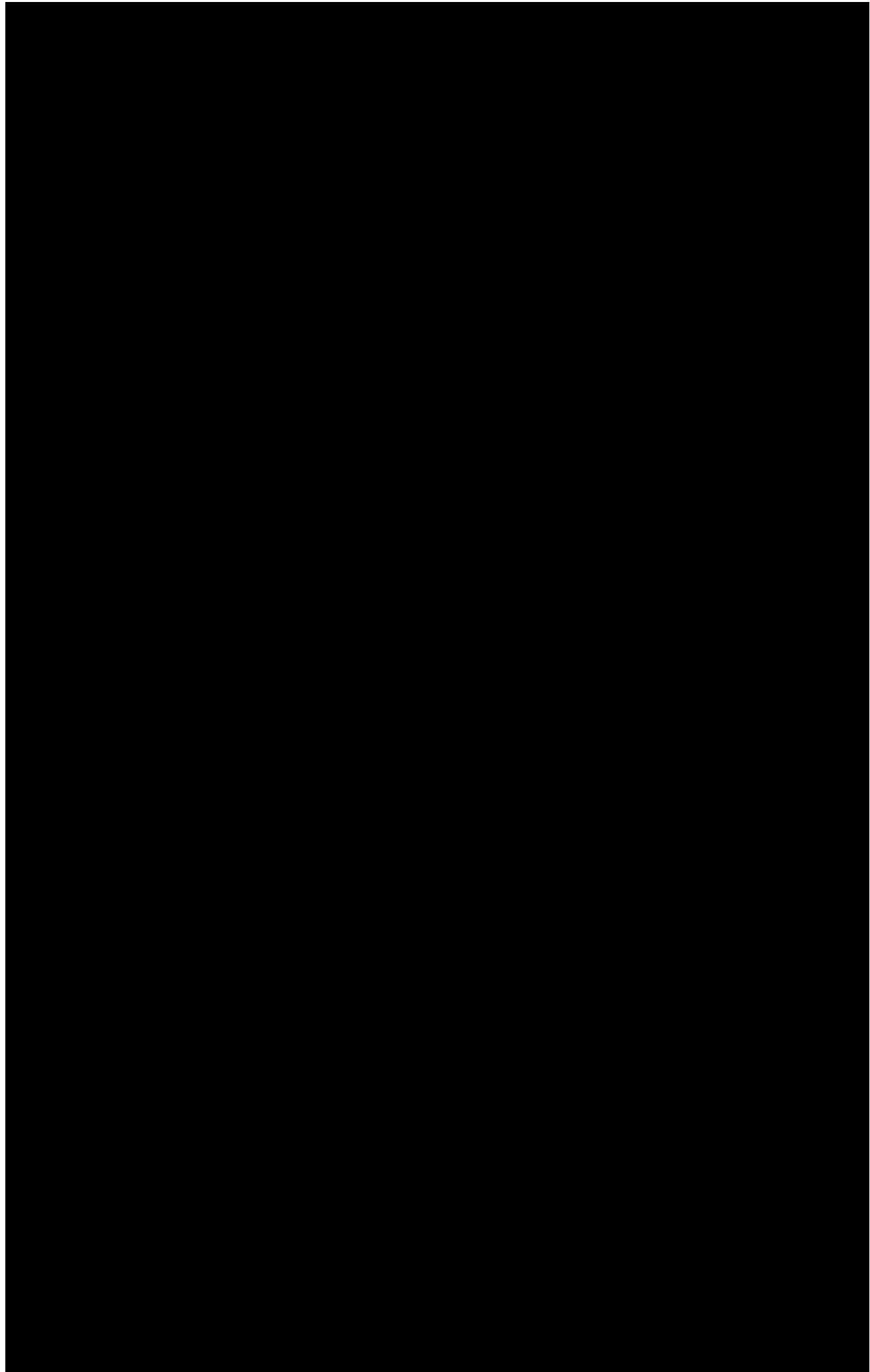
6.1 The Sub-Committee has taken into account the relevant provisions of the Act.

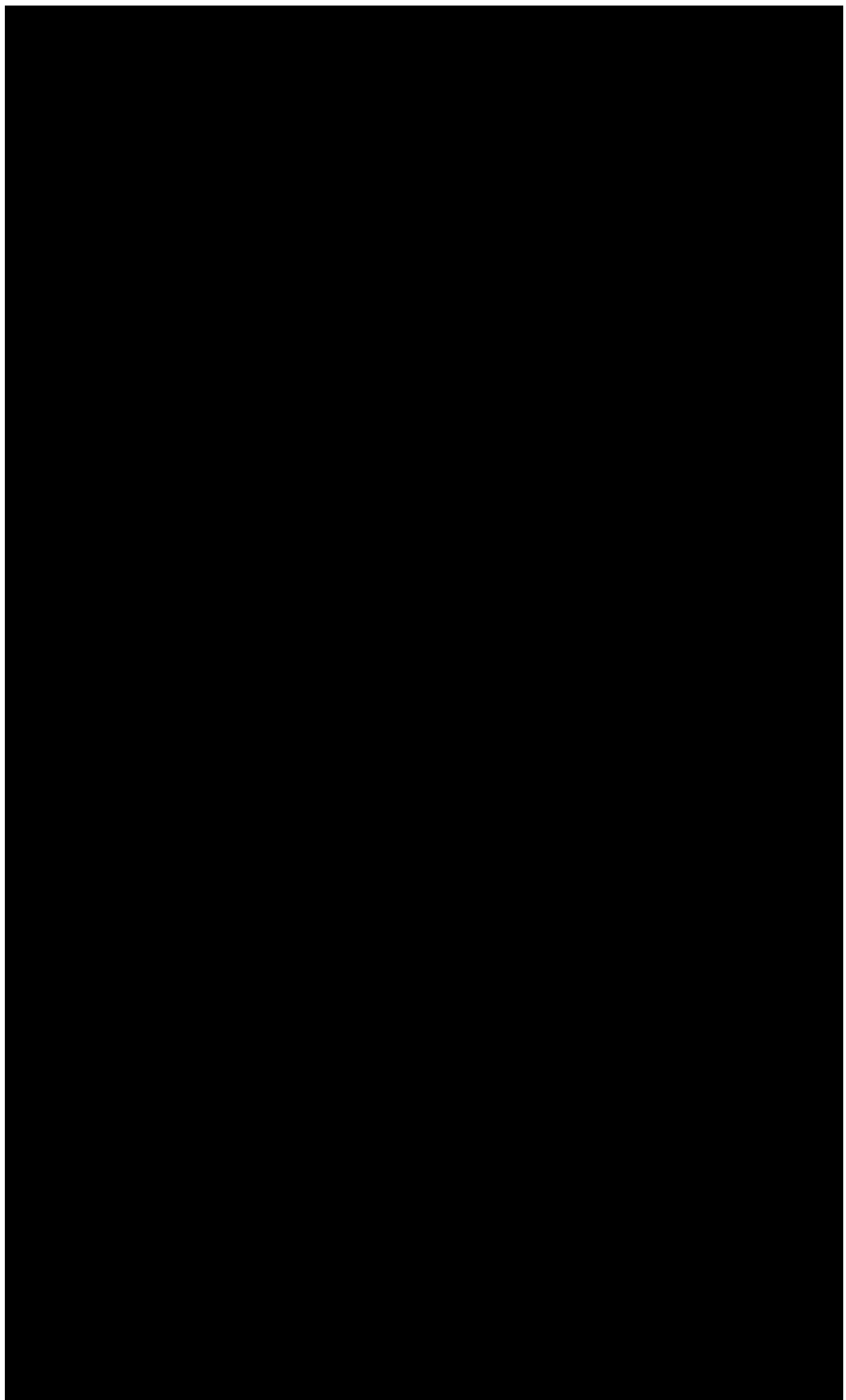
7. Section 182 Guidance

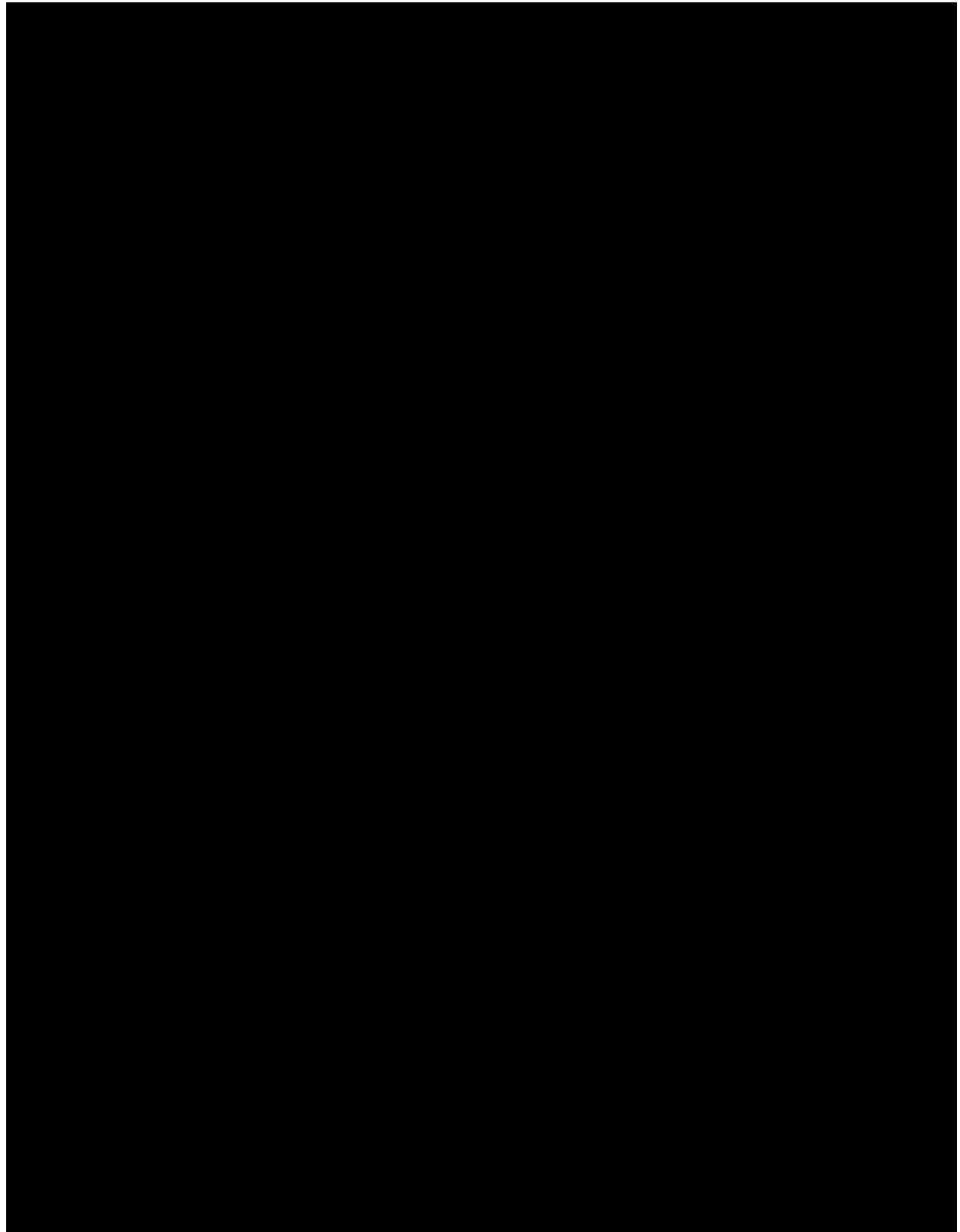
7.1 The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance issued April 2018. The Sub-Committee has also considered the Section 53A Summary Review Guidance.

8. Licensing Policy

8.1 The Sub-Committee has considered and taken account of the Council's licensing policy.







PLEASE NOTE:

- Under section 53B of the Licensing Act 2003, this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to its decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same.
- Whether or not representations with respect to this decision are made, the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.

Appendix 4: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number

Granted

Issued

DCCC/PLA0182

09 September 2014

09 October 2014

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
FINNIANS 7 TRAFALGAR STREET CONSETT DH8 5AP	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates

N/A

Licensable activities authorised by this licence

Plays
Films
Indoor Sporting Events
Boxing or Wrestling Entertainment
Live Music
Recorded Music
Performances of Dance
Anything similar to live music, recorded music or performance of dance
Late Night Refreshment
Sale by Retail of Alcohol

The opening hours of the premises (all times in 24hr format)

Monday	11:00 - 00:30	Non standard/seasonal timings:
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	
Friday	11:00 - 00:30	
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales

ON ALCOHOL SALES ONLY

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

Performance of plays

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Films

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Indoor sporting events

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Boxing or wrestling entertainments

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Live music

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Recorded music

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Performances of dance

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Anything of a similar description to live music, recorded music or performances of dance

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Late night refreshment

Indoors only

Monday	23:00 - 00:00	Further details
Tuesday	23:00 - 00:00	N/A
Wednesday	23:00 - 00:00	
Thursday	23:00 - 00:00	Non standard/seasonal timings:
Friday	23:00 - 00:00	N/A
Saturday	23:00 - 00:00	
Sunday	23:00 - 00:00	

Sale by retail of alcohol

On Sales Only

Monday	11:00 - 00:00	Further details
Tuesday	11:00 - 00:00	
Wednesday	11:00 - 00:00	Non standard/seasonal timings:
Thursday	11:00 - 00:00	
Friday	11:00 - 00:00	
Saturday	11:00 - 00:00	
Sunday	11:00 - 00:00	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
MR ANTHONY NICHOLSON FINNIANS 7 TRAFALGAR STREET CONSETT DH8 5AP	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	N/A
Charity no:	N/A
Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol	
MR ANTHONY NICHOLSON 143 CASTLEDENE ROAD DELVES LANE CONSETT DURHAM DH8 7DZ	
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol	
DCCPER3670 DURHAM COUNTY COUNCIL	

Annex 1 – Mandatory conditions

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children –

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol: -

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

The responsible person shall ensure that:-

(a) Where any of the following alcoholic drinks is sold or supplied for sale or consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

(b) Customers are made aware of the availability of these measures.

Minimum Price of Alcohol:

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or

- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

A) General

At all times when the premises are open for any licensable activity it shall be ensured that there are sufficient competent staff on duty for the purpose of fulfilling the terms and conditions of the licence.

B) The prevention of crime and disorder

A full comprehensive CCTV system will be installed and maintained in proper working order, such system shall:-

1. Be operated by properly trained staff
2. Be in operation at all times that the premises are being used for licensable activities.
3. Ensure coverage of all entrances and exits to the licensed premises internally and externally
4. Ensure coverage of such other areas as maybe required by the Licensing Authority and or Durham Constabulary.

C) Public safety

Fire exits will be maintained at all times access to such being available at all times

D) The prevention of public nuisance

Notices will be site for patrons leaving the premises to exit and disperse in an orderly manner.

E) The protection of children from harm

Challenge 25 will be in operation.

All members of staff shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years.

All staff responsible for selling age restricted goods to be trained to implement the age verification policy. Training records for staff to be maintained and refresher training to be provided annually.

Minimise the risk of proxy sales – safeguards to be in place to try to ensure that alcohol is not purchased or obtained for young people by relatives or older friends (proxy provision) and that the applicant will work actively with the police to minimise this risk. Staff training to include the risk from proxy sales.

Where a sale of alcohol is refused if a person appears intoxicated or appears to be under 18, a refusal register to be updated. The register to be made available to the police on request.

Annex 3 – Conditions attached after a hearing by the licensing authority on the 9th September 2014

Conditions added after Licensing Committee on the 9th September 2014

The Premises License Holder will hold the Licensing Objectives in high regard and keep staff fully trained on all of their policies and procedures. All training records will be made available to Police Officers or Responsible Authority Officers upon request.

The Premises Licence Holder will ensure that initial staff training is carried out by the DPS or approved member of staff to ensure no alcohol is sold to anyone under age. Refresher training will be carried out every six months and training records will be kept for every member of staff and endorsed after every training session.

CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality to allow facial recognition in all lighting conditions. Cameras shall encompass the inside and outside of all entrances and exits to the Premises including fire exits, as well as rear yards and all areas where the sale or supply of alcohol occurs.

CCTV equipment shall be maintained in good working order and be correctly time and date stamped. Recordings must be kept securely under the control of the DPS or other names responsible individual in date order, numbered sequentially and kept for a period of 28 days. An operational weekly log report shall be maintained and endorsed by a signature, indicating the CCTV system has been checked and is compliant. In the event of any failings of the CCTV, the actions taken to remedy the same are to be noted in the weekly log.

The Premises Licence Holder must ensure at all times that the DPS or other appointed member of staff is capable and competent at downloading CCTV in a recordable format (either disc, hard drive or memory stick), and providing the same to Officers of the Police or Responsible Authority on demand.

No glass containers shall be taken outdoors. All drinks to be consumed outdoors shall be decanted into plastic glasses.

The Premises Licence Holder shall ensure that fire exits and fire equipment are clearly marked, and that all staff are aware of requirements regarding health and safety, with first aid facilities being available.

An incident log shall be kept at all times.

The Challenge 25 proof of age policy shall be implemented. The only forms of identification that are to be accepted are a passport, photo driving licence or PASS hologram ID.

A refusals register will be kept and endorsed after every sale refused, including those over 18 years purchasing alcohol and passing it to those who are underage.

In respect of Under 18 year events:-

- The Premises Licence Holder or DPS shall notify the Police Licensing Officer, Licensing Authority and Local Safeguarding Children Board of any event for persons under the age of 18 years not less than 28 days in advance of the event.
- The Premises Licence Holder shall ensure that sufficient SIA registered security staff are employed at the event, where being a minimum of:-
 - 2 security staff, one of whom must be a female, for the first 100 customers, and
 - An additional 2 security staff if there are between 101 and 200 customers:- and
 - 1 further security staff for each additional 100 customers thereafter.
- At least 1 member of the security staff shall walk around the premises as a floor walker to monitor patrons for evidence of alcohol or drugs and protect them from unwanted attention or harassment.
- Entry and dispersal procedures shall be in place to ensure young people are not left in a vulnerable position outside the premises.

- Where there is normally a bar, alcohol shall not be on display and must be locked away.
- There shall be a minimum of one hour between the conclusion of any youth event and the premises opening for the commencement of any adult entertainment.
- All customers entering the Premises shall be searched on entry, including their bags, to prevent alcohol and other illegal substances being carried on to the premises. Any alcohol seized from a person who is under the age of 18 shall be included in the incident log.
- Any prior marketing of the event (including via the internet, flyers, posters, etc) shall make it clear that there will be no alcohol sold to those under age, nor will persons appearing to be drunk be admitted, and that searches will take place to ensure no alcohol is brought in to the premises. Permissible ages for attendance at the event shall be printed with prominence on any tickets issued for the event.
- A policy shall be in place for dealing with under 18s who appear to be under the influence of drugs or alcohol, which policy shall set out how the duty of care to those minors will be met.
- Checks of the toilets shall be carried out at regular intervals and records of such checks retained.
- A policy shall be in place and implemented to prevent under 18s leaving to consume alcohol and then returning to the Premises.
- An area must be designed as a safe space, to which ill or intoxicated persons, including minors, can be taken for medical treatment or until reunited with a parent, guardian or responsible adult.
- All under 18 events shall terminate by 23.00.

In respect of Mixed Age Events

- All patrons shall be given a secure wristband of different colours to differentiate adults from those under 18
- Only one alcoholic drink can be sold to an adult per transaction.
- At least 2 SIA registered security staff shall act as floor walkers to constantly monitor patrons under 18 years of age for evidence of alcohol or drugs and to protect them from unwanted attention or harassment.
- Children under the age of 16 shall not be permitted to attend the event unless accompanied by a responsible adult, which adult shall not be responsible for more than 4 such children.
- All drinks shall be served in plastic or polycarbonate vessels.

Annex 4 – Plans attached

Attached

Signature of Authorised Officer
Head of Environment, Health and Consumer Protection



LICENSING ACT 2003 PREMISES LICENCE SUMMARY

Premises Licence Number

Granted
Issued

DCCC/PLA0182
09 September 2014
09 October 2014

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
FINNIANS 7 TRAFALGAR STREET CONSETT DH8 5AP	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ

Telephone number:

Where the licence is time limited the dates
N/A

Licensable activities authorised by this licence

Plays
Films
Indoor Sporting Events
Boxing or Wrestling Entertainment
Live Music
Recorded Music
Performances of Dance
Anything similar to live music, recorded music or performance of dance
Late Night Refreshment
Sale by Retail of Alcohol

The opening hours of the premises (all times in 24hr format)		
Monday	11:00 - 00:30	Non standard/seasonal timings:
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	
Friday	11:00 - 00:30	
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales
ON ALCOHOL SALES ONLY

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

Performance of plays

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A-
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Films

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Indoor sporting events

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Boxing or wrestling entertainments

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Live music

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Recorded music

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Performances of dance

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Anything of a similar description to live music, recorded music or performances of dance

Indoors only

Monday	11:00 - 00:30	Further details
Tuesday	11:00 - 00:30	N/A
Wednesday	11:00 - 00:30	
Thursday	11:00 - 00:30	Non standard/seasonal timings:
Friday	11:00 - 00:30	N/A
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Late night refreshment

Indoors only

Monday	23:00 - 00:00	Further details
Tuesday	23:00 - 00:00	N/A
Wednesday	23:00 - 00:00	
Thursday	23:00 - 00:00	Non standard/seasonal timings:
Friday	23:00 - 00:00	N/A
Saturday	23:00 - 00:00	
Sunday	23:00 - 00:00	

Sale by retail of alcohol

On Sales Only

Monday	11:00 - 00:00	Further details
Tuesday	11:00 - 00:00	
Wednesday	11:00 - 00:00	Non standard/seasonal timings:
Thursday	11:00 - 00:00	
Friday	11:00 - 00:00	
Saturday	11:00 - 00:00	
Sunday	11:00 - 00:00	

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

MR ANTHONY NICHOLSON
FINNIANS
7 TRAFALGAR STREET
CONSETT
DH8 5AP

Registered number of holder, for example company number, charity number (where applicable)

Company no: N/A
Charity no: N/A

Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol

MR ANTHONY NICHOLSON

State whether access to the premises by children is restricted or prohibited

Children under the age of 16 shall not be permitted to attend the event unless accompanied by a responsible adult, which adult shall not be responsible for more than 4 such children.

Signature of Authorised Officer
Head of Environment, Health and Consumer Protection

Appendix 5: Review application and Certificate

ANNEX C

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Durham County Council, Licensing Services
St Johns Road North, Meadowfield,
DH7 8RS

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Sgt 484 Caroline Dickenson [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:
FINNINANS
7 Trafalgar Street
DH8 5AP

Post town: Consett

Post code (if known): **DH8 5AP**

2. Premises licence details:

Name of premises licence holder (if known): Anthony NICHOLSON

Number of premises licence holder (if known): DCC/PLA0182

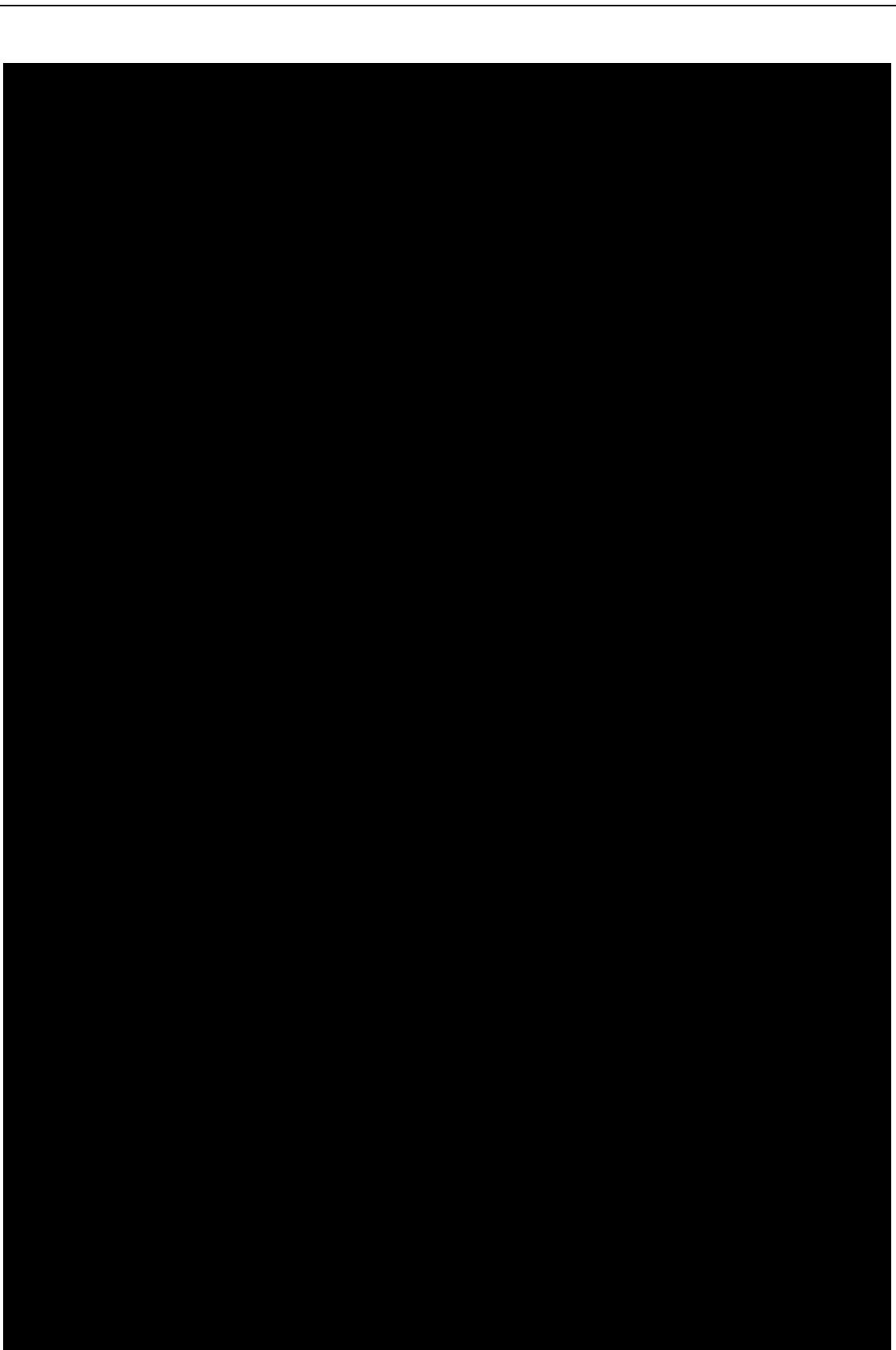
3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

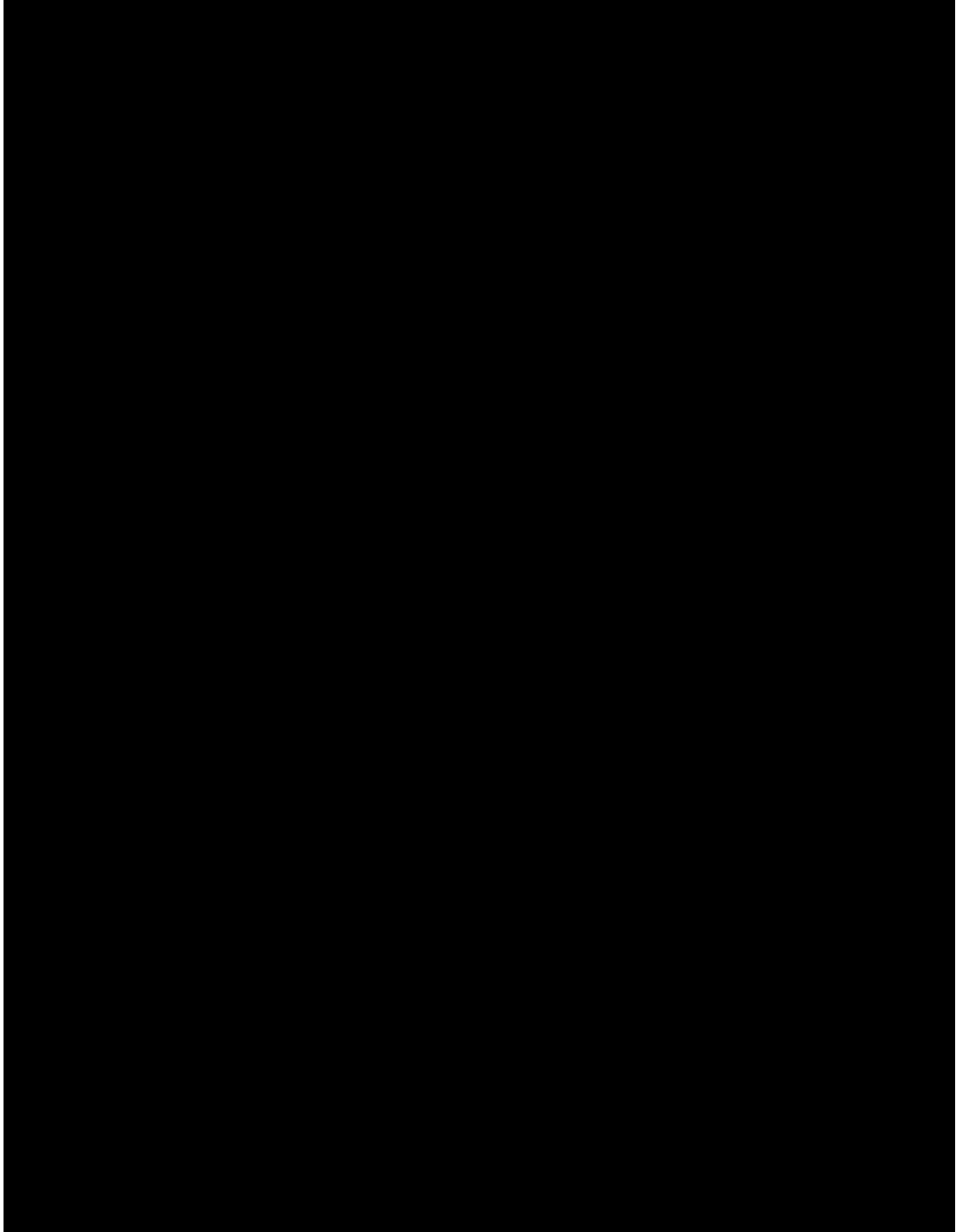
I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

A large black rectangular redaction box covers the majority of the page content below the question. It starts just below the question and extends down to the bottom of the page, effectively obscuring all text and other markings beneath it.



Signature of applicant: Caroline Dickenson

Date: 28th March 2022

Capacity: Licensing Sgt

Contact details for matters concerning this application:

Address: Durham County Council, Licensing Services

St Johns Road North, Meadowfield,
DH7 8RS

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Durham Constabulary
Force HQ
Aykley Heads
DH1 5TT

CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003

[REDACTED]

Premises:

FINNINANS
7 Trafalgar Street
Consett
DH8 5AP

Premise licence no: DCC/PLA0182

Name of Premises licence holder: Anthony NICHOLSON

I am a Superintendent in Durham Constabulary.

I am giving this certificate because I am of the opinion that the other procedures under the licensing Act 2003 are inappropriate in this case, and that it is proportionate in the circumstance for the reasons below.

[REDACTED]

Signed



Dated 28/03/2022

Print name Louise Galliott-Thornton 9375

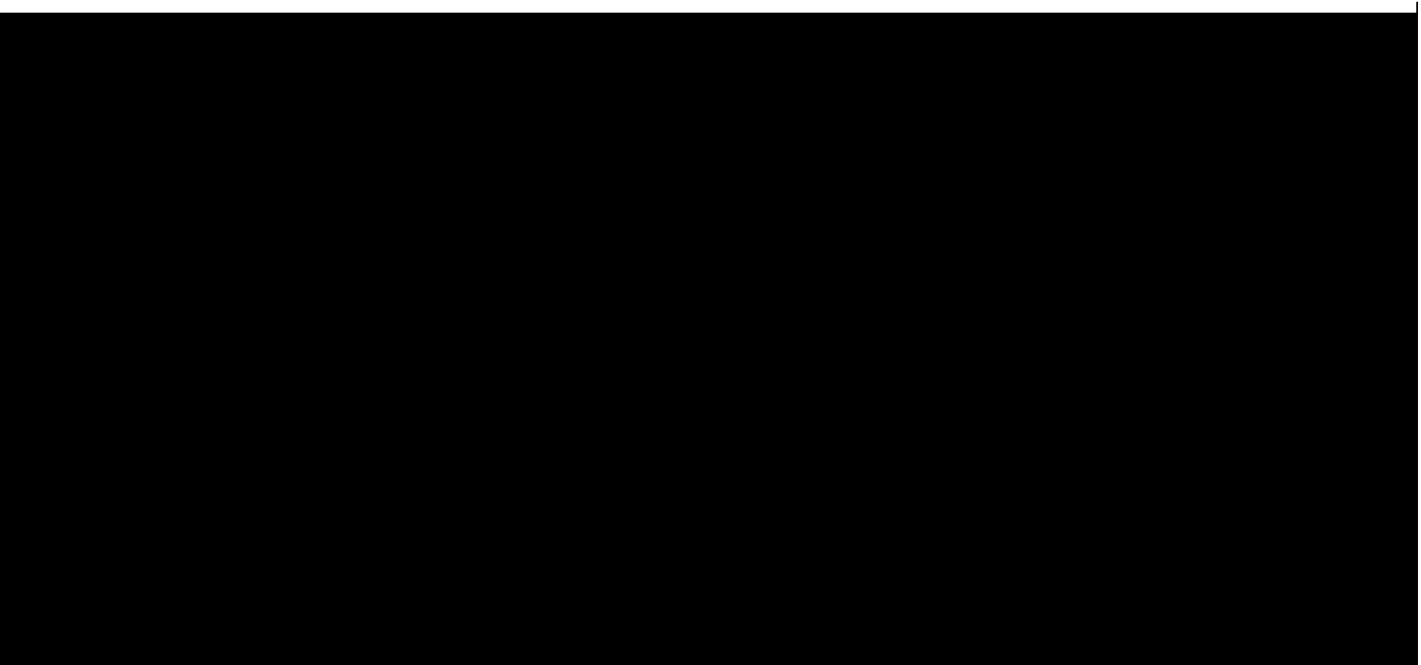
Title Superintendent

Appendix 6: Representation

Helen Johnson - Licensing Team Leader (N'hoods)

From: Sarah Smith <sarah.smith@durham.police.uk>
Sent: 07 April 2022 16:35
To: Helen Johnson - Licensing Team Leader (N'hoods)
Cc: AHS Licensing; caroline.dickenson@durham.police.uk
Subject: Finnian's, 7 Trafalgar Street, Consett [SINTONS-LLP-LIVE.FID258289]

Dear Helen



Kind regards
Sarah

Sarah Smith
Partner | Sintons LLP
Direct Dial: +44 (0) 191 226 4897
Switchboard: +44 (0) 191 226 7878
Email: sarah.smith@sintons.co.uk



The image is a banner for the Northern Law Awards 2019. On the left, there is a photograph of several glasses filled with liquid. To the right of the photo, the text "Northern Law Awards" is written in a green, stylized font, with "2019" in a smaller green box below it. At the bottom left, the website "www.lawawards.co.uk" is visible. On the right side, the word "WINNER!" is displayed in large, bold, white letters. Below it, the text "Law Firm of the Year (6+ Partners)" is written in a smaller white font. At the very bottom, the name "Sintons LLP" is printed in large, white, sans-serif letters.

Appendix 7: Statement of Licensing Policy

3.10 Review of a premises licence or club premises certificate - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as ‘any other person’ e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues;
- Asking DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant “responsible authority” e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.

7.1 The Prevention of Crime and Disorder - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

The council encourages, and will look positively on, the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

The council expects every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

The council recommends that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

The council encourages personal licence holders to actively participate in established “Pubwatch” schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the “Best Bar None” initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

The council recognises and promotes effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as ‘Challenge 25’. These are amongst the most important control measures for the achievement of all Licensing Objectives.

The council will take a positive view of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

The council also considers it to be good practice if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a “vertical drinking establishment” where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

Maximum occupancy: When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council’s Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

Security: Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be licensed by the SIA as a supervisor/manager. The numbers of licensed door

supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

Toughened/Safety Glass: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

Drugs/Knives/Weapons: **The council will expect** licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

- 7.2 Public Safety** - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

Applicants are advised to seek advice on such matters from the council's occupational health and safety team, Health and Safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service. They should incorporate any recommendations from these responsible authorities in their

Operating Schedule before submitting their applications. Matters for consideration include:

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

In addition to the information provided above, **Table 2 in Appendix VI** provides recommendations, suggestions and examples of how to prevent the specific dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

Appendix 8: Section 182 Guidance

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with

Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (*be ultra vires*) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Section 182 Guidance - The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be

positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
 - a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
 - modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the

representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order or illegal working compliance order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.